

**In the Matter Of:**

**WASHINGTON vs CONTINENTAL TIRE**

#3:20-cv-04056-mgl-svh

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**GARY WASHINGTON**

*March 01, 2022*

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1 Q And are you comfortable moving  
2 forward with today's deposition?

3 A I am.

4 Q And Mr. Washington, I'm going to  
5 hand you your medication back. Thank you.  
6 Mr. Washington, did you review today's -- your  
7 lawsuit -- excuse me -- your complaint in  
8 preparation for today's deposition?

9 A No. No. No.

10 Q No. Did you meet with your  
11 attorney, Ms. Robinson in preparation for  
12 today's deposition?

13 A Yes. Discussion.

14 Q Okay. And I don't want to know what  
15 you and Ms. Robinson talked about. I just  
16 wanted to ask you if you've met with her in  
17 preparation for today. And I believe your  
18 answer to that question is yes.

19 A Yes.

20 Q Mr. Washington, what is your date of  
21 birth?

22 A Redacted for Privacy/1962.

23 Q Where were you born?

24 A Charleston in South Carolina.

25 Q And this will not be filed in the

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1 A Gary Washington, II.

2 Q What is the name of your 35-year-old  
3 child?

4 A Rene Michele Washington.

5 Q Where does Gary Washington, II live?

6 A In Florida.

7 Q In what city in the state of  
8 Florida?

9 A Orlando.

10 Q Where does your daughter, Rene  
11 Michele Washington live?

12 A Outskirts of Atlanta.

13 Q The outskirts of Atlanta, Georgia?

14 A Yes. Johns Creek.

15 Q Other than the charge of  
16 discrimination that you filed against  
17 Continental with the E.E.O.C., the South  
18 Carolina Human Rights Commission, have you ever  
19 filed any other charges of discrimination with  
20 the E.E.O.C. or similar state agency against an  
21 employer?

22 A No.

23 Q Have you ever been a plaintiff in  
24 any lawsuit other than the lawsuit that you --  
25 you've filed against Continental that we're

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1 discussing today?

2 A Yes.

3 Q And what matter were you a plaintiff  
4 in?

5 A I brought a lawsuit against a small  
6 business for not paying 60,000 dollars for a  
7 contract I helped them to win.

8 Q Where was that lawsuit filed?

9 A Richland County.

10 Q Richland County, South Carolina?

11 A Yes.

12 Q Were you the named plaintiff in that  
13 lawsuit or was it a business entity was the  
14 named plaintiff?

15 A My business.

16 Q Your business was the named  
17 plaintiff?

18 A Correct.

19 Q What business?

20 A Carolina Procurement Institute.

21 Q When was that case filed, to the  
22 best of your recollection, in Richland County,  
23 South Carolina?

24 A It's awhile. 12 or 13 years ago.

25 Q You believe that they'd been filed



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1 12 or 13 years ago?

2 A Yes.

3 Q And what entity did you name the  
4 defendant in that lawsuit?

5 A Cabra Construction.

6 Q Can you spell the first name?

7 A C-A-B-R-A Construction. I believe  
8 that is it.

9 Q And has that matter been resolved?

10 A Yes. We won the 60,000 dollar  
11 amount.

12 Q You recovered 60,000 dollars in the  
13 lawsuit against Cabra Construction?

14 A I did not recover. I won the case.  
15 I did not go further.

16 Q Other than the lawsuit that you  
17 brought against Cabra Construction, have you  
18 ever been a plaintiff in any other lawsuit,  
19 other than the lawsuit against Continental?

20 A No. Not that I can think of.

21 Q Have you ever been arrested?

22 A Yes.

23 Q On how many occasions?

24 A The D.U.I. that I mentioned to you  
25 and then in the military.

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1           A           I can't recall. That's when my  
2 mother passed. I think I was in school getting  
3 signed out.

4           Q           You said you think you were in  
5 school when it signed out in April 2019?

6           A           Yes or no, but probably -- I'm not  
7 positively sure.

8           Q           When you were attending Morris  
9 College, was Continental Tire paying for that?

10          A           No.

11          Q           Was Continental Tire reimbursing you  
12 for courses that you were enrolled in at Morris  
13 College?

14          A           No.

15          Q           Were you ever employed by Morris  
16 College?

17          A           I had a contract with them, yes.

18          Q           Is that a 5,000 dollar contract you  
19 obtained from Morris college?

20          A           Yes. As a contractor.

21          Q           Mr. Washington, we are going talk  
22 now about how you came to be employed by  
23 Continental Tire. When did you first start  
24 working at Continental Tire?

25          A           Probably late 2017 or beginning of

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1 '18, I think. Through a temp service.

2 Q So the first time you began working  
3 at Continental Tire, you were engaged through a  
4 temporary staffing service?

5 A Yes.

6 Q And during your engagement at  
7 Continental as a temporary -- engaged through a  
8 temporary staffing service, what types of duties  
9 were you performing at Continental?

10 A Preparing tires.

11 Q Preparing tires?

12 A It's called -- it's executing a  
13 machine that was prepar--- putting all of the  
14 materials of the tire together for the end  
15 product. Tire build.

16 Q Tire build?

17 A Yes.

18 Q And just make sure you continue to  
19 make your answers audible. And was this at  
20 Continental Sumter, South Carolina plant?

21 A Yes.

22 COURT REPORTER: Ms. Pinson, I'm  
23 sorry to interrupt. But Mr. Washington, could  
24 you speak up a little bit. I'm having a little  
25 trouble hearing you. Thank you so much. Sorry

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1 A Yes.

2 Q If you could turn back to the first  
3 page of the document. In the upper, left-hand  
4 corner, you'll see that there's a date of  
5 application. The document states June 27th,  
6 2017. Did I read that correctly?

7 A Yes.

8 Q Does that sound about right from the  
9 time that you submitted this application for  
10 employment with Continental Tire?

11 A Yes.

12 Q Now, if you could turn to the third  
13 page of the document which is Bates number  
14 continental number 7. In the bottom, right-hand  
15 corner. Up at the top, you're asked to identify  
16 some appointment. Do you see that on this  
17 document?

18 A Yes.

19 Q And you've identified some previous  
20 employers and those are Carolina Procurement  
21 Institute and D-E-S-A. Did I read those  
22 correctly?

23 A Yes.

24 Q Carolina Procurement Institute, you  
25 indicate on this document that you were the

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1 You provide some references at the top document.

2 A Yes.

3 Q And the first reference you give is  
4 Loretta --

5 A Kneal.

6 Q Kneal.

7 A Kneal. It should be K-N-E-A-L.

8 Q Loretta Kneal. And where did you  
9 work with Loretta Kneal.

10 A At D.E.S.A.

11 Q You also identify Cynthia Aike.

12 A It should be A-I-K-E-N. Aiken.

13 Q Cynthia Aiken. Where did you work  
14 with Cynthia Aiken?

15 A She was a client and a business  
16 owner.

17 Q Now, you testified earlier that your  
18 employment with Continental Tire first commits  
19 through a temporary staffing agency. Is that  
20 right?

21 A Yes.

22 Q At some point, did you become a  
23 permanent full-time employee of Continental  
24 Tire?

25 A Yes.

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1 Q Does January 2018 sound accurate to  
2 you?

3 A Yes.

4 Q Did you interview with anyone at  
5 Continental Tire prior to obtaining that  
6 full-time employment in January of 2018?

7 A I think Oscar Boyle.

8 Q Do you believe you've interviewed  
9 with anyone else at Continental Tire prior to  
10 obtaining full-time employment?

11 A H.R., a lady, I don't remember her  
12 name.

13 Q Anyone else?

14 A And yes. A woman that was my  
15 trainer. I don't remember her name.

16 Q And you were offered full-time  
17 employment at the Sumter, South Carolina plant?

18 A Yes.

19 Q Do you know who made the decision to  
20 hire you as a full-time employee at the Sumter  
21 South Carolina plant for Continental?

22 A The lady I mentioned and Oscar  
23 Boyle. The trainer and Oscar Boyle.

24 Q Make sure you state that  
25 Mr. Washington.

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1 A Yes.

2 Q Did you work with South Carolina  
3 Sumter plant for the duration of your employment  
4 with Continental?

5 A Yes.

6 (EXHIBIT NUMBER 2  
7 MARKED FOR IDENTIFICATION.)

8 By MS. PINSON:

9 Q Mr. Washington, I'm going to hand  
10 you what's marked as deposition exhibit number  
11 2. And Mr. Washington, what does deposition  
12 exhibit number 2 appear to be to you?

13 A Terms and conditions of the contract  
14 with Continental Tire and myself.

15 Q Does it look like an offer of  
16 employment with Continental Tire to you?

17 A Yes.

18 Q Do you recall receiving this offer  
19 of employment from Continental Tire?

20 A I do.

21 Q And if you could turn to the second  
22 page of the document at the bottom of the  
23 document. Is that your signature?

24 A Yes.

25 Q And according to this document, you

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1 Continental Tire?

2 A I don't remember the shift.

3 Q And by shift, we mean what hours of  
4 the day you were working at that period of time.  
5 Is that correct?

6 A Correct.

7 Q And you don't remember what hours of  
8 the day you were working at the time of your  
9 employment at the Sumter plant ended?

10 A Correct.

11 (EXHIBIT NUMBER 3  
12 Marked for Identification.)

13 By MS. PINSON:

14 Q Mr. Washington, I'm going to hand  
15 you deposition exhibit number 3.

16 Mr. Washington, I've just handed to you  
17 deposition exhibit number 3. Is that your  
18 signature on the bottom left-hand portion of  
19 this document?

20 A Yes.

21 Q And then throughout the document,  
22 there's various places to initial. Are those  
23 your initials on the document?

24 A Yes.

25 Q When you first began your employment



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1 with Continental as a tire build operator, who  
2 did you report to?

3 A Would you clarify?

4 Q Sure. When you first began working  
5 as a full-time permanent employee of Continental  
6 Tire at the Sumter plant as a tire build  
7 operator, do you remember who your direct  
8 supervisor was? Who you reported to directly?

9 A I believe Oscar Boyle.

10 Q Did you report to Oscar Boyle as a  
11 direc--- directly for the duration of your  
12 employment?

13 A No.

14 Q So at some point, your direct  
15 supervisor changed?

16 A Depending on the shift, yes.

17 Q Do you know who Oscar Boyle reported  
18 to when -- when you reported directly to  
19 Mr. Boyle?

20 A No.

21 Q Did he report to Clayton Tucker?

22 A I don't know if he -- who he  
23 reported to.

24 Q You don't know who Mr. Boyle  
25 reported to?

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1 day from Mr. Boyle, do you know one way or the  
2 other if he reported to her? If Mr. Boyle  
3 reported directly to her?

4 A I think that was her -- his boss.  
5 Yes.

6 Q That's what you believed to have  
7 been his boss?

8 A Correct.

9 Q Was your direct supervisor ever John  
10 Stein?

11 A Yes.

12 Q When was Mr. Stein your direct  
13 Supervisor?

14 A When I was on the shift and he was  
15 over.

16 Q So you reported to Mr. Stein when  
17 you worked the shift that Mr. Stein was  
18 responsible for?

19 A Correct.

20 Q Do you know when you might have  
21 worked a shift for which Mr. Stein was  
22 responsible?

23 A Give me the question again.

24 Q Sure. Do you -- do you remember at  
25 what periods of time you may have worked a shift

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1 A Accept with response.

2 Q Accept with response?

3 A Yes.

4 Q Now Mr. Washington, am I correct  
5 that during your employment with Continental  
6 Tire, you sought some leave under the Family and  
7 Medical Leave Act related to the need to care  
8 for your wife, Michele?

9 A Yes.

10 Q So you had some experience with  
11 Continental's F.M.L.A. request process from  
12 having sought leave to care for Michele. Is  
13 that correct?

14 A Yes.

15 Q If I refer to the F.M.L.A. today,  
16 are we in agreement that I'm referring to the  
17 Family and Medical Leave Act?

18 A Yes.

19 Q Okay. And I'll try to refer to the  
20 Family and Medical Leave Act, but it's sometimes  
21 easier for me to just say F.M.L.A. Now, do you  
22 recall when your leave under the Family and  
23 Medical Leave Act commenced for your need to  
24 care for your wife, Michele?

25 A No.

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1 Q Would December of 2018 sound  
2 accurate to you?

3 A Yes.  
4 (EXHIBIT NUMBER 8  
5 MARKED FOR IDENTIFICATION.)

6 By MS. PINSON:

7 Q Mr. Washington, I'm going to hand  
8 you deposition exhibit number 8. All right.  
9 Mr. Washington, I've just handed you deposition  
10 exhibit number 8. Does this appear to be an  
11 F.M.L.A. leave request form that you completed  
12 during your employment with Continental Tire?

13 A Yes.

14 Q And there's handwriting on the  
15 document. Is that your handwriting on the first  
16 page of deposition exhibit number 8?

17 A Yes.

18 Q And if you could turn to the second  
19 page of deposition exhibit number 8, there's an  
20 employee statement at the top, on the second  
21 page. Is that your signature under the employee  
22 statement?

23 A Correct.

24 Q And according to this document, you  
25 completed this F.M.L.A. leave request form on

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1 December the 13th, 2018. Does that sound right  
2 to you?

3 A No.

4 Q When do you believe you completed  
5 this form?

6 A I believe it was the date that I put  
7 on the -- on the document initially.  
8 12/13/2015. But that was incorrect at that time  
9 and I just -- and they told me what I needed to  
10 do and I did it. But initially, when Michele  
11 went into a coma, I just did whatever they told  
12 me to do. I put the two-thousand--- 12/13/2015  
13 and then the person just said, this is what you  
14 need to do. And they -- they just said, you  
15 initial this, this and this leave. And I did  
16 it. But it -- it had to be in 2018.

17 Q Okay. So --

18 A But the document says 2015.

19 Q Well, if you turn to the second page  
20 of the document --

21 A Yes.

22 Q Beside your signature on the second  
23 page of the document, there is a date. Do you  
24 see the second page of the document that I've  
25 handed to you?

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1 A I do.

2 Q It's Bates number Continental 18.

3 Can you please turn to that?

4 A Yes.

5 Q And you see beside your signature,  
6 December the 13th, 2018?

7 A That's right.

8 Q Is that the accurate date that you  
9 submitted this leave request form?

10 A Yes.

11 Q And so the date that's on the first  
12 page of deposition exhibit number 8, where it  
13 indicates December 13, 2015, that was an error?

14 A To me, at the time, it was not an  
15 error. I was discombobulated. But the bottom  
16 line is, it had to be an error. Because I wrote  
17 it and then I signed it saying it was correct.  
18 Because on -- on the final page where it says  
19 12/18/18, all of the information had to be  
20 correct. So I was saying that 2015 was correct.  
21 But nonetheless, it was 2018. I was not at  
22 Continental in 2015, although I wrote this. So  
23 that was an error.

24 Q Okay. So the error, 12/13/15.

25 Okay. Now, on this document -- in the middle

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1 portion of the document, you indicate on here  
2 that you need leave to care for your spouse. Is  
3 that right? Michele?

4 A Yes.

5 Q Now, am I correct that on this  
6 form -- if you look at the middle part of  
7 Continental 17, there's also a place that you  
8 can check to seek leave to care for your parent.  
9 Do you see that?

10 A When was that notation?

11 Q Sure. On the first page of  
12 deposition exhibit number 8 which is Continental  
13 17. Am I correct that there's also an  
14 opportunity for someone to say that they needed  
15 leave to care for their parent?

16 A Correct. I see that.

17 Q Okay. And in fact, you  
18 inadvertently selected that you needed to leave  
19 to care for your parent at first and then  
20 corrected that. That it was for your spouse,  
21 Michele. Is that right?

22 A That's right.

23 Q Now, how did you get deposition  
24 exhibit number 8? How did you come to obtain it  
25 and complete it? Do you remember?

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1           A       Based on this date, I think it was  
2       H.R. that called me. Ashley Cox. And took me  
3       upstairs to her office. And I signed and filled  
4       this out.

5           Q       So you believe someone at H.R. gave  
6       you deposition exhibit number 8 to complete?

7           A       Yes.

8           Q       And do you recall who you submitted  
9       this form to or did you give it to Ashley Cox?

10          A       On the spot. We did it right there  
11       in the office. Yes.

12          Q       And you believe Ashley Cox was in  
13       human resources at the Continental Sumter Plant?

14          A       Well, I never knew her, but she was  
15       in charge of getting me vacation or time away to  
16       go be with Michele.

17          Q       Okay.

18          A       So I would imagine, at the time she  
19       had to be H.R.

20          Q       So Ashley Cox helped you with  
21       obtaining time away to care for your wife,  
22       Michele?

23          A       Yes.

24          Q       Now, other than this form that you  
25       completed, this deposition exhibit number 8 for



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1 the time that you needed away -- away from work  
2 to care for your wife, Michele, did you ever  
3 request or complete this form any other time  
4 during your employment with Continental?

5 A I do not believe so, no.

6 Q If you could turn to the last page  
7 of deposition exhibit number 8 which is marked  
8 Continental 21 in the bottom, right-hand corner.  
9 Do you see it, Mr. Washington?

10 A I do.

11 Q Is that your signature on deposition  
12 exhibit number 8 at Continental Bates number 21?

13 A Yes.

14 Q And there's an employee number on  
15 the document. Was that your employee number  
16 during your employment with Continental on the  
17 last page of deposition exhibit number 8?

18 A Yes.

19 Q Do you remember signing deposition  
20 exhibit number 8 at Continental 21?

21 A Yes. I do remember signing this.

22 MS. PINSON: Okay. We'll go off the  
23 record and take a quick bathroom break.

24 (OFF THE RECORD)

25 MS. PINSON: Amber and

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1 Mr. Washington, I just want to put something on  
2 the record before we continue the deposition.  
3 At approximately 11:00 this morning,  
4 Mr. Washington indicated that he needed to  
5 attend to a matter at work. We agreed to  
6 accommodate Mr. Washington and to take an early  
7 lunch and allow Mr. Washington until noon to  
8 attend to the matter and return for his  
9 deposition. He has now returned for the  
10 continuation of his deposition. While the  
11 parties will take some additional short breaks  
12 throughout the day to use the restroom and the  
13 like, the parties have agreed not to break for  
14 lunch to accommodate Mr. Washington's need to  
15 depart a few minutes ago to attend to a work  
16 matter. Amber, does that accurately summarize  
17 our agreement?

18 MS. ROBINSON: That does. Thank  
19 you.

20 MS. PINSON: Mr. Washington, are you  
21 ready to continue?

22 THE DEPONENT: I am.

23 MS. PINSON: Thank you.

24 By MS. PINSON

25 Q All right. Mr. Washington, you may

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1 remember before you departed that we were  
2 talking about a leave of absence that you took  
3 under the Family and Medical Leave Act to attend  
4 to -- need to care for -- need to care for your  
5 wife. Do you recall us talking about that?

6 A Yes.

7 (EXHIBIT NUMBER 9  
8 MARKED FOR IDENTIFICATION.)

9 By Ms. Pinson:

10 Q Okay. And if -- I'm going to hand  
11 you now what's was going to be marked as  
12 deposition exhibit number 9. Mr. Washington,  
13 deposition exhibit number 9 has just been handed  
14 to you. And if you can look at the middle  
15 portion of the first page under section two. Do  
16 you see section two of the document?

17 A Yes.

18 Q And is that your handwriting under  
19 section two of the document?

20 A Yes.

21 Q And if you look at the bottom of  
22 deposition exhibit number 9 on the first page,  
23 is that your signature at the bottom of the  
24 document?

25 A Yes.

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1 Q And it appears you signed this  
2 document on December the 13th, 2018. Does that  
3 sound right to you?

4 A Yes.

5 Q This form that you completed on the  
6 first page, that's deposition exhibit number 9,  
7 how did you obtain this form to complete it? Do  
8 you remember?

9 A I believe I received this from  
10 Ashley Cox.

11 Q And Ashley Cox is in human resources  
12 at Continental?

13 A Yes.

14 Q And other than completing this form  
15 for the leave that you took to care for your  
16 wife, Michele, did you ever complete this form  
17 or request it for any other leave during your  
18 appointment with Continental?

19 A No.

20 (EXHIBIT NUMBER 10  
21 MARKED FOR IDENTIFICATION.)

22 By MS. PINSON:

23 Q Mr. Washington, I'm going to hand  
24 you what's going to be marked as deposition  
25 exhibit number 10. Mr. Washington, I just

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1 handed you deposition exhibit number 10. What  
2 does this document appear to be to you?

3 A A designation of notice.

4 Q Under the Family and Medical Leave  
5 Act?

6 A Yes.

7 Q Do you recall receiving this form,  
8 designation notice, under the Family and Medical  
9 Leave Act during your employment with  
10 Continental?

11 A I do not.

12 Q Was your leave for the need to care  
13 for your wife when she had serious illness, was  
14 that leave under the Family and Medical Leave  
15 Act approved by Continental?

16 A Yes.

17 Q At the top of the page, there's an  
18 e-mail address on deposition exhibit number 10.  
19 Is that your e-mail address or was it an e-mail  
20 address you maintained?

21 A Yes.

22 Q Is that an e-mail address you  
23 maintained in 2019?

24 A I think so, yes.

25 Q Do you still use the e-mail address

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1 expected to review an employee handbook when you  
2 were employed at Continental?

3 A No.

4 Q When you were employed at  
5 Continental, did you understand that Continental  
6 had an attendance policy?

7 A Yes.

8 Q Okay. And I believe you run a  
9 business. Is that fair to say?

10 A Correct.

11 Q Do you expect your -- do you have  
12 any employees in your business?

13 A Not right now, no.

14 Q Have you ever had employees in your  
15 business?

16 A Yes.

17 Q The employees that you have in the  
18 businesses that you run, do you appreciate good  
19 attendance from your employees?

20 A Yes.

21 (EXHIBIT NUMBER 11  
22 MARKED FOR IDENTIFICATION.)

23 By MS. PINSON:

24 Q Mr. Washington, I'm going to hand  
25 you what's being marked as deposition exhibit

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1 Q Mr. Washington, did your mother pass  
2 away in April of 2019?

3 A Yes.

4 Q Did she pass away on April the 10th  
5 of 2019?

6 A Yes.

7 Q And following your mother's death on  
8 April the 10th of 2019, did you receive three  
9 days of paid bereavement leave related to her  
10 passing from Continental?

11 A I'm not aware.

12 Q Do you know one way or the other  
13 whether Continental gave you three days of  
14 bereavement leave related to the death of your  
15 mother?

16 A I don't remember. I don't know.

17 Q Did your employment at Continental  
18 terminate?

19 A Yes.

20 Q Do you know on what date Continental  
21 terminated your employment?

22 A No.

23 Q Do you know who made the decision to  
24 terminate your employment at Continental?

25 A Yes.

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1 else he shared with you during that  
2 conversation?

3 A That I should have called him  
4 before.

5 Q And what did Mr. Tucker -- did  
6 Mr. Tucker elaborate on what he meant by you  
7 should have called him before?

8 A No.

9 Q Was Mr. Tucker referring to you  
10 should have called to let him know you weren't  
11 going to be at work?

12 A No.

13 Q But you don't know what Mr. Tucker  
14 was referring to?

15 A No. Not at the time, no.

16 Q Okay. Do you know when Continental  
17 made the decision to terminate your employment?

18 A I would say, no. When he told me,  
19 he had that hour, I think.

20 Q That wasn't my question. My  
21 question was, do you know when the decision was  
22 made to terminate your employment? What day?

23 A To answer your question, no.

24 Q Mr. Washington, do you know whether  
25 Continental Tire at the Sumter Plant has



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1 terminated other employees for excessive  
2 absences?

3 A I would not know.

4 Q Are you aware of any employee at  
5 Continental, at the Sumter Plant, who exceeded  
6 the allowed, unauthorized or unexcused absences  
7 under Continental's attendance policy who was  
8 not terminated?

9 A I would not know.

10 Q Mr. Washington, are you aware of any  
11 employee at Continental who exceeded six  
12 attendance points in violation of Continental's  
13 attendance policy who was not terminated?

14 A Same answer. I do not know.

15 Q After your employment terminated,  
16 Mr. Washington, do you know whether Continental  
17 posted a vacancy for your tire build operator  
18 position?

19 A I do not know.

20 Q Mr. Washington, do you know if  
21 Continental filled your position?

22 A Yes.

23 Q And who do you believe Continental  
24 filled your position with?

25 A I don't know.

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1 Oscar Boyle?

2 A Correct.

3 Q And these appear to -- at the top,  
4 there's a message from you to Mr. Boyle on  
5 February the 26th, 2019 that states, okay. Is  
6 that right?

7 A On the 26th. Let's see. I see  
8 where it says February 26th and it says, okay.

9 Q Right. On February the 26th, 2019,  
10 you say okay to Oscar. Is that right?

11 A Yes.

12 Q And then it looks like on April the  
13 12th, 2019, at 7:04 in the morning, you send a  
14 message to Oscar. Is that right?

15 A Yes.

16 Q And you share with Oscar Boyle on  
17 April the 12th, 2019 that your mother passed  
18 away. Is that right?

19 A Yes.

20 Q And do you remember sending this  
21 message to Mr. Boyle?

22 A Yes.

23 Q And in this message, you also tell  
24 Mr. Boyle that you let -- I shared with Sup  
25 John. Are you saying that you shared this

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1 information with your -- with supervisor, John  
2 Stein as well?

3 A Yes.

4 Q And had you already shared the  
5 information with John Stein at the time you sent  
6 this message on April 12th, 2019 at 7:04 in the  
7 morning to Mr. Boyle?

8 A Yes.

9 Q And how did you share with Mr. Stein  
10 that your mother had passed away? Was it by  
11 text, by phone call? Do you remember?

12 A Through the system -- the telephone  
13 system that we have to call in.

14 Q Okay. So you --

15 A And they gave me a code number and  
16 the lady said she would transfer me and it just  
17 dropped off. And then I called her back, but I  
18 had the little number.

19 Q Okay. So if I'm understanding your  
20 testimony, you called into the -- to the call-in  
21 number that Continental has available for  
22 employees to utilize when they're going to be  
23 absent to let Mr. Stein know that you were going  
24 to be absent and that your mom had passed away.  
25 Is that right?

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1 A Yes, I believe so.

2 Q And when you messaged Mr. Boyle on  
3 April the 12th, 2019 to let him know that your  
4 mother passed away, what was Mr. Boyle's  
5 response to your message?

6 A To this message, he said get things  
7 squared with it. Prior to, I told him the same  
8 day my mom passed. But it's not on a text.

9 Q Well, my -- my question to you first  
10 is, what did Mr. Boyle say to you in the text  
11 message?

12 A I'm sorry to hear this news. Just  
13 as soon as you all make plans, just let me know  
14 and we can go from there.

15 Q Okay. And you had talked to  
16 Mr. Boyle in a telephone conversation prior to  
17 this text message exchange?

18 A I believe it was a text message -- I  
19 mean, a phone call --

20 Q And --

21 A -- that had been made and through  
22 someone to let him know what was going on.

23 Q And what did Mr. Boyle say in that  
24 communication?

25 A That he is praying for my family.

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1 Q Mr. Boyle said he was praying for  
2 your family?

3 A Right.

4 Q After your mother passed away on  
5 April the 10th, 2019, did you ever return to  
6 work at the Continental Sumter plant?

7 A No, I did not return. No.

8 Q Do you know if you were scheduled to  
9 work on April the 15th of 2019?

10 A No.

11 Q No, you do not know?

12 A Correct.

13 Q I'm going to hand you a calendar  
14 that represents April the 15th of 2019 so we  
15 could refer to if that might be helpful.

16 A Uh-huh.

17 (EXHIBIT NUMBER 13  
18 MARKED FOR IDENTIFICATION.)

19 By MS. PINSON:

20 Q I hand to you deposition exhibit  
21 number 13, which represents an April ninety---  
22 April, 2019 calendar that I've printed just to  
23 help for our discussion. Now, if you look at  
24 that calendar, Mr. Washington, April 15th, 2019  
25 is a Monday. Is that right?

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1 right?

2 A At --

3 Q If you look at the bottom of  
4 deposition exhibit number 12 --

5 A Yes.

6 Q -- on April the 19th, 2019, at 8:43  
7 in the morning, you send a message to Oscar  
8 Boyle. Is that right?

9 A Yes.

10 Q And does that message then continue  
11 on at the top of deposition exhibit number 14?

12 A I don't see a date or time.

13 Q Well --

14 A But I do see that the funeral was  
15 good -- the funeral was good, complete. I'll be  
16 back. Could you respond back if John need me to  
17 fill out any paperwork. I need to fill out any  
18 paperwork. Yes. It looks like a continuation.

19 Q Okay. So these are just two  
20 separate screenshots of the same conversation  
21 that continues from deposition 12 into 14. Is  
22 that right?

23 A Yes. I believe so.

24 Q And so on April of 2019 at 8:43 in  
25 the morning, you let Mr. Boyle know that your

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1 mother's funeral was complete and that you would  
2 be back to work on April the 23rd. Is that  
3 right?

4 A Yes.

5 Q Okay. And then his response to you  
6 is that you get three days paid bereavement  
7 leave. Is that right?

8 A Yes. I see that.

9 Q And he also advises you that  
10 anything over four days, you would need to go  
11 through human resources and claim. Do you see  
12 that?

13 A Yes.

14 Q And is -- he's referring to Clayton  
15 Tucker there?

16 A Yes. I believe so.

17 Q And what is your response to  
18 Mr. Boyle when he tells you you get three days  
19 paid bereavement leave and that anything  
20 additional, you need to go through H.R. or  
21 Clayton Tucker?

22 A I said, okay. Thank you or thanks.

23 Q And do you also tell him that you'll  
24 be there at work on April 23rd after class?

25 A Yes.

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1 Q What day was your mother's funeral?

2 A I don't remember.

3 (EXHIBIT NUMBER 15

4 MARKED FOR IDENTIFICATION.)

5 By MS. PINSON:

6 Q Mr. Washington, I'm going to hand  
7 you deposition exhibit number 15, which I'll  
8 represent to you is an obituary from your  
9 mother's funeral.

10 A Uh-huh.

11 Q And if you look at that obituary, it  
12 indicates that your mother's funeral would take  
13 place on Thursday, April the 18th, 2019. Is  
14 that correct?

15 A Correct.

16 Q Okay. So your mother's funeral had  
17 already taken place at the time that you  
18 messaged Mr. Boyle on April 19th, 2019. Is that  
19 accurate?

20 A Yes.

21 Q You -- you advised Mr. Boyle in the  
22 text message exchange on April the 19th, 2019,  
23 at the top of deposition exhibit number 14, you  
24 say, could get any response from John if I  
25 needed to fill out any paperwork. God bless,



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1 Gary. Are you -- who are you referring to when  
2 you say John?

3 A John Stein.

4 Q Okay. So had you reached out to  
5 John Stein as of April the 19th, 2019?

6 A Well, before that too.

7 Q And did you ask Mr. Stein for  
8 paperwork?

9 A No. I just told him what was going  
10 on and he said go back to work and then he'll  
11 get with me, but I never talked to him really.

12 Q And when was this conversation with  
13 Mr. Stein?

14 A I don't know the date. It's time  
15 that I was at work.

16 Q So Mr. Boyle, on deposition exhibit  
17 number 14, tells you that if you want anything  
18 above three days paid bereavement leave, that  
19 you need to go through human resources. Do you  
20 see that?

21 A I see that.

22 Q Did you ever talk to human resources  
23 about taking any additional leave after April  
24 19th, 2019?

25 A No.

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1 Q And you told Mr. Boyle you would  
2 return for work on April the 23rd, 2019, after  
3 class. Is that right?

4 A Yes.

5 Q When you refer to class, are you  
6 talking about classes at Morris College?

7 A I believe so, yes.

8 Q So as of April the 19th, 2019, you  
9 had represented to Mr. Boyle that you intended  
10 to go to class at Morris College on April the  
11 23rd, 2019. Is that correct?

12 A Or drone class. I'm not sure which  
13 one. But yes.

14 Q Or what type of class?

15 A Drone.

16 Q Drone?

17 A Yes.

18 Q So you don't recall which type of  
19 class you intended to go to, but you were either  
20 going to go to drone class or classes at Morris  
21 College on April the 23rd, 2019?

22 A Yes.

23 Q Do you know if you went to class on  
24 April the 23rd, 2019?

25 A I don't know if I did.

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1 letting them know what was going on.

2 Q Now, the message that you said you  
3 left for John Stein, is that a message directly  
4 to him or just a message that you left on the  
5 call-in number?

6 A The call-in number, there's a person  
7 who picks up the phone.

8 Q Uh-huh.

9 A That person is who I gave the  
10 message to and they would get that to the  
11 supervisor.

12 Q Okay.

13 A And when they return, they would  
14 give you a number and say, the maintenance or  
15 whoever you're calling.

16 Q Do you know when you called into  
17 report that you would not be at work on April  
18 the 19th, 2019?

19 A I don't know if I did, no.

20 Q So you don't know if you called in  
21 to report that you would be absent on April the  
22 19th, 2019?

23 A Correct.

24 Q Do you know if you were assessed any  
25 attendance points for April the 19th, 2019?

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1 A No.

2 Q No, you do not know?

3 A I do not know.

4 Q Do you know if you were assessed any  
5 attendance points for April the 20th, 2019?

6 A No.

7 Q Is that no, you do not know?

8 A No, I do not know.

9 Q Do you know if you were assessed any  
10 attendance points for April the 21st, 2019?

11 A No.

12 Q Is that no, you do not know?

13 A No, I do not know.

14 Q Now, you had represented on April  
15 the 19th, 2019, that you would return to work on  
16 the evening of April 23rd in this message to  
17 Oscar Boyle. Is that right?

18 A Be back on the 23rd.

19 Q Is that -- so you represented to him  
20 you would be at work on the 23rd of April?

21 A Yes.

22 Q Did you go back to work on the 23rd  
23 of April of 2019?

24 A No.

25 Q Did you call in to report your

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1 absence for April the 23rd, 2019?

2 A No.

3 Q Do you know if an attendance point  
4 was assessed for your absence on April the 23rd,  
5 2019?

6 A No.

7 Q Is that no, you do not know?

8 A No, I do not know.

9 Q Did you return to work at  
10 Continental at any point after April the 23rd,  
11 2019?

12 A No.

13 Q Were any of your absences -- strike  
14 that. If you could turn back to deposition  
15 exhibit number 14. Do you see the bottom of  
16 deposition exhibit number 14?

17 A Yes.

18 Q Okay. And it looks like after you  
19 had told Mr. Boyle that you would be at work by  
20 April the 23rd, hi--- your next message to him  
21 is April the 27th, 2019. Is that correct?

22 A 27, yes.

23 Q Did you talk to Mr. Boyle between  
24 April the 19th, 2019 and April the 27th, 2019 in  
25 any other -- in any other way, by -- by phone,

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1 told not to come in, so I would not have called  
2 to excuse myself.

3 Q Were any of your absences following  
4 exhaustion of your bereavement leave for your  
5 mother's death -- death -- excuse me -- in April  
6 2019, were you advised that any of your absences  
7 were excused other than the three days you  
8 received for bereavement leave?

9 A I don't know. No.

10 Q You don't know?

11 A No. I -- I didn't -- I didn't see  
12 it. This is the only communication I had.  
13 Correct.

14 Q And when you're saying the only  
15 communication you had, you're referring to the  
16 text message exchanges that you just pointed to  
17 that are deposition exhibits number 12 and 14?

18 A Correct.

19 Q At the time your employment  
20 terminated at Continental, do you know how many  
21 attendance points you had accumulated?

22 A No.

23 Q No, you do not know?

24 A No, I do not know.

25 Q Prior to the conversation that

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1           A       It was something like this, yes,  
2       what I needed to get to get -- pay for classes.

3       (EXHIBIT NUMBER 20  
4       MARKED FOR IDENTIFICATION.)

5       By Ms. Pinson:

6           Q       I'm handing you deposition exhibit  
7       number 20. Mr. Washington, does this appear to  
8       be the charge of discrimination that was  
9       submitted to the equal employment opportunity  
10      commission following the termination of your  
11      employment from Continental?

12          A       Yes.

13          Q       Is that your signature at the bottom  
14      left-hand corner of the document?

15          A       Yes.

16          Q       And you signed that document on  
17      October the 15th, 2019. Is that correct?

18          A       Yes.

19          Q       And I'm I correct, in that signing  
20      it, you declared under penalty of perjury that  
21      everything above your signature is true and  
22      correct?

23          A       Yes.

24          Q       And if you could turn to the second  
25      page of the document. Do you see that, it's

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1 Bates number Continental 99?

2 A Yes.

3 Q Is that information that was  
4 completed by you or by a lawyer on your behalf?

5 A This is completed by the attorney,  
6 not me.

7 Q And was that Attorney Alex Kelly?

8 A Correct.

9 Q Did you share information with  
10 Mr. Kelly that helped him prepare the second  
11 page of your E.E.O.C. charge?

12 A Yes.

13 Q And does this E.E.O.C. charge appear  
14 to be an accurate copy of the charge of  
15 discrimination inclusive of the supplement  
16 that's at page two that was submitted to the  
17 E.E.O.C.?

18 A Yes.

19 Q And if you look at the top of the  
20 document on the first page of deposition exhibit  
21 number 20 --

22 A Uh-huh.

23 Q -- you provide your address as 420  
24 Lane Chase, Johns Creek, Georgia 30097. Did I  
25 read that correctly?



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1 Q Do you know what shift -- strike  
2 that. We discussed -- we discussed earlier  
3 today communications that you had with Oscar  
4 Boyle advising him that you would return to work  
5 on April the 23rd, 2019. Do you recall those  
6 conversations?

7 A Yes.

8 Q Okay. Do you know what shift you  
9 were scheduled to work on April 23rd, 2019?

10 A No.

11 Q No, you do not know?

12 A I do not know.

13 Q So if you could turn back to exhibit  
14 numbers 12 and 13, which are be text message  
15 exchanges that you had with Oscar Boyle. And  
16 just let me know when you're there.

17 A I'm there.

18 Q So if you could turn to exhibit  
19 number 14.

20 A Yes.

21 Q And on April the 19th, 2019,  
22 Mr. Boyle tells you you get three days paid  
23 bereavement leave. Is that correct?

24 A Yes.

25 Q And beyond Mr. Boyle telling you

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1 that you had three days of bereavement leave  
2 available after your brother's death on April  
3 the 10th, 2019, did anyone at Continental tell  
4 you that any absences would be excused?

5 A No.

6 Q All right. So I'd like to turn back  
7 to your complaint, which I believe is deposition  
8 exhibit number 16, your second amended  
9 complaint.

10 A Yes.

11 Q Okay. So in paragraph number 15, do  
12 you see that?

13 A Yes.

14 Q You state that on April the 3rd,  
15 2019 you notified your supervisor John Stein  
16 that your mother had -- mother had been admitted  
17 to the I.C.U. and was near death. Did I read  
18 that correctly?

19 A Yes.

20 Q And then you also allege in  
21 paragraph 16 that you asked Mr. Stein for  
22 permission to go on a leave of absence to care  
23 for your mother. Did I read that correctly?

24 A You read that right.

25 Q Okay. Is -- is that accurate? Did

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1 you ask Mr. Stein what you represent in  
2 paragraph 16?

3 A I don't know if that's so because I  
4 -- I remember speaking with him face to face.  
5 And that was when I told him my mother was  
6 deathly ill and I left. And I didn't talk to  
7 him after that.

8 Q Okay. So -- so after April the 3rd,  
9 2019, you never talked to Mr. Stein again?

10 A I'm not sure, but I do know that it  
11 was -- my last conversation was face to face.

12 Q With Mister -- your last  
13 conversation with Mr. Stein was face to face?

14 A Correct.

15 Q And you never returned to work after  
16 April the 3rd, 2019 at the Continental Sumter  
17 Plant. Is that correct?

18 A I'm not certain because she passed  
19 on the 10th. I would have to look.

20 Q Do you know your last day that you  
21 reported to work at the Continental Sumter  
22 Plant?

23 A I do not.

24 Q And then paragraph 17, Mis--- you  
25 state in this complaint, Mr. Stein agreed and

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1 asked Mr. Washington to keep him updated.

2 A Right.

3 Q So Mr. Stein agreed to let you take  
4 some time to care for your mother?

5 A Yes, that's face to face at the job.

6 Q Was anyone else present to this  
7 conversation that -- that you just -- that's  
8 described in paragraphs 15, 16 and 17 of your  
9 second amended complaint?

10 A I don't recall.

11 Q So sitting here today, you can't  
12 identify any other witness to this conversation?

13 A I do not recall.

14 Q Did you tell -- and this  
15 conversation occurred on April the 3rd, 2019?

16 A I'm not certain the date that it  
17 happened. I just know it was traumatic for me.  
18 I took -- I was authorized to leave.

19 Q Okay. Mr. Stein authorized you to  
20 leave?

21 A I think he got the authority from  
22 Mr. Boyle. I don't know. I just know that  
23 after I told him, he stepped out then he stepped  
24 back in and says, you can go.

25 Q Okay. And then your mother passed

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1 A I never spoke with him.

2 Q Do you know if Mr. Stein tried to  
3 call you back?

4 A Yes.

5 Q So Mr. Stein tried to call you back,  
6 but you never --

7 A No.

8 Q -- spoke with him?

9 A No. I'm aware -- to answer your  
10 question, I'm aware -- I would be aware if he  
11 tried to call me because it would have come to  
12 my phone, my cellphone or my voice mail.

13 Q Now, if your cell phone was off and  
14 Mr. Stein did not leave a voice mail message,  
15 would you have any way to know that Mr. Stein  
16 attempted to call your cell phone?

17 A No.

18 Q When you had this conversation with  
19 Mr. Stein -- face to face with him, which I  
20 believe you said was prior to attempting to  
21 connect with him by phone. Is that right?

22 A Yes.

23 Q When you had the face-to-face  
24 conversation with Mr. Stein and you told him  
25 about your mother's illness and wanting to take

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1 some time, did you ask Mr. Stein for  
2 F.M.L.A. leave during that face-to-face  
3 conversation?

4 A No.

5 Q During that face-to-face  
6 conversation with Mr. Stein, did you mention  
7 F.M.L.A. leave at all during that conversation?

8 A No.

9 Q Now, when you attempted to be  
10 patched through to Mr. Stein using the call-in  
11 number, you never got connected to him. Is that  
12 correct?

13 A Correct.

14 Q And so you never talked to him again  
15 after the face-to-face conversation?

16 A Correct.

17 Q So when you called in to the call-in  
18 number and asked to be connected to Mr. Stein,  
19 do you know who you spoke with?

20 A No. A female.

21 Q And other than it being a female,  
22 you don't know who it was you spoke with?

23 A No.

24 Q Do you know what depart--- do you  
25 know if they're a Continental employee or if

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1 A No. But the code would do that.

2 Q What do you mean the code would do  
3 that?

4 A There is a code that is issued to  
5 validate that you were -- before the time you  
6 were supposed to work that you contacted them  
7 and made them aware, so they could put someone  
8 in your place. That code would identify with  
9 whoever issued it or how it came about, so it  
10 would be a timeline with that. And I do  
11 believe -- I don't know if it was recorded, but  
12 I do know that that's why I waited for a  
13 response. You don't keep -- after you do what  
14 you're supposed to do -- that's what you're  
15 supposed to do and then they will contact you  
16 and move forward.

17 Q Okay. My question is a little bit  
18 different. My question is, was there anyone  
19 else on the phone call with you and the  
20 switchboard person when you --

21 A No.

22 Q -- had a conversation with her?

23 A The answer is no.

24 Q Who with Continental do you contend  
25 retaliated against you under the F.M.L.A.?

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1 A I contend that it's John Stein.

2 Q Anyone other than John Stein?

3 A No.

4 Q Is it your contention that Mr. Stein  
5 retaliated against you when your employment  
6 terminated?

7 A No.

8 Q So how do you contend that you were  
9 retaliated against? How do you contend that  
10 Mr. Stein retaliated against you in violation of  
11 the F.M.L.A.?

12 A Communications, things that he said  
13 to me.

14 Q Anything else?

15 A Places where he removed me from and  
16 put me -- located me.

17 Q Anything else?

18 A The attitude toward me.

19 Q Anything else?

20 A That's it.

21 Q That's it?

22 A Correct.

23 Q What communications are you  
24 referring to that Mr. Stein allegedly made to  
25 you or with you?



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1           A           He asked me my age several times.  
2           He asked me when I was going to retire. He  
3           called me old man. And he pulled me from the  
4           job that I was hired to do to work in a -- poor  
5           conditions and a -- contrary to what he would do  
6           with the other individuals that were my peers  
7           and of my -- they would -- they were younger  
8           than me.

9           Q           Do you know if Mr. Stein played any  
10          role in the decision to terminate your  
11          employment?

12          A           I don't know.

13          Q           So I asked you to identify what  
14          actions you believe Mr. Stein took against you  
15          to retaliate against you in violation of the  
16          Family and Medical Leave Act and one of the  
17          topics you mentioned was communications. And I  
18          asked you what those were and you mentioned that  
19          Mr. Stein asked you about your age, asked you  
20          when you were going to retire and allegedly  
21          called you an old man. We'll talk about those  
22          topics under your age discrimination claim, but  
23          I'm trying to understand what actions Mr. Stein  
24          took against you to retaliate against you in  
25          violation of the Family and Medical Leave Act.

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1           A       They're in there, on the Family and  
2       Medical Leave Act. I was referring to  
3       discrimination.

4           Q       So you don't believe Mr. Stein took  
5       any action against you to retaliate against you  
6       in violation of the Family and Medical Leave  
7       Act?

8           A       I don't know.

9           Q       So sitting here today, you don't  
10      know whether Mr. Stein did anything to retaliate  
11      against you in violation of the Family and  
12      Medical Leave Act?

13          A       Correct.

14          Q       Did anyone at Continental ever tell  
15      you that you were being terminated for invoking  
16      any rights under the FMLA?

17          A       No.

18          Q       Did anyone at Continental ever make  
19      any negative comment related to your need to be  
20      absent to care for your wife Michele?

21          A       No.

22          Q       Other than what we've talked about  
23      thus far, is there any other basis for your FMLA  
24      retaliation claim?

25          A       Based on what we've talked about,

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1 that's it.

2 Q Okay. So other than what we've  
3 talked about, there's no other basis for your  
4 FMLA retaliation claim; is that correct?

5 A Correct.

6 Q So let's talk about your age  
7 discrimination claim. So it's your contention  
8 in your second amended complaint that you were  
9 discriminated against on the basis of your age;  
10 is that correct?

11 A Correct.

12 Q All right. And I believe you've  
13 identified John Stein thus far. Is there anyone  
14 else other than John Stein you contend  
15 discriminated against you on the basis of your  
16 age?

17 A No.

18 Q And I asked you earlier what actions  
19 you believe Mr. Stein took against you, and you  
20 identified communications that were made, things  
21 that were said by Mr. Stein, his attitude  
22 towards you and places where you were relocated.  
23 Is that correct?

24 A That's correct.

25 Q Is there any other action that you

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1 contend Mr. Stein took against you to  
2 discriminate against you on the basis of your  
3 age?

4 A I believe that my ratings.

5 Q Your ratings?

6 A The ratings on the -- that position  
7 provided to me.

8 Q Performance evaluation ratings?

9 A Correct.

10 Q Okay. Anything else?

11 A No.

12 Q Do you know whether your performance  
13 evaluation ratings had any role in the  
14 termination of your employment?

15 A I do not know.

16 Q So in your complaint, you allege in  
17 paragraph 29, that on at least two occasions in  
18 2019, Mr. Stein referenced your age and asked if  
19 you were considering retiring. Did I read that  
20 correctly?

21 A Yes.

22 Q Do you know how old Mr. Stein is?

23 A No.

24 Q Do you know if Mr. Stein is older  
25 than you?

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1 A I believe he is, yes.

2 Q You believe Mr. Stein is older than  
3 you?

4 A Yes.

5 Q Did Mr. Stein ever talk about his  
6 own plans to retire with you?

7 A No.

8 Q Do you know whether Mr. Stein has  
9 retired from Continental?

10 A No.

11 Q So I'm going to talk about the first  
12 conversation that you've identified in paragraph  
13 29 of your complaint. So you allege that on at  
14 least two occasions, Mr. Stein referenced your  
15 age and asked if you were considering  
16 retirement. Let's talk -- talk about the first  
17 occasion. When do you allege the first  
18 conversation took place with Mr. Stein?

19 A In his office.

20 Q Okay. Were there any witnesses?

21 A No.

22 Q Okay. And when did that  
23 conversation take place? Not where. At what  
24 point in time?

25 A I don't know. Do not know.

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1 Q Do you know if it was in 2019?

2 A No.

3 Q No, you do not know?

4 A No.

5 Q And what exactly do you allege

6 Mr. Stein said on this first occasion?

7 A He wanted to know how old I was, but  
8 more importantly, he wanted to know when I was  
9 going to be leaving on retirement. And he did  
10 it again later on when he called me over --

11 Q We're going to talk about first  
12 occasion first.

13 A Right.

14 Q Okay. So he wanted to know how old  
15 you were and you allege he wanted to know when  
16 you were retiring. Is that correct?

17 A Yes.

18 Q Did he say anything else in this  
19 first conversation?

20 A No.

21 Q Do you know whether Mr. Stein was  
22 just having a conversation with you, a friendly  
23 conversation?

24 A For sure I know because he did not  
25 have those with me.

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1 Q Oh, Mr. Stein did not have friendly  
2 conversations with you?

3 A No.

4 Q Did Mr. Stein ever joke with other  
5 employees?

6 A Not that I'm aware of.

7 Q Do you know whether Mr. Stein joked  
8 with other employees? Do you know one way or  
9 the other?

10 A Not that I'm aware of, no.

11 Q And in his first conversation, other  
12 than asking you how old you were and asking you  
13 when you may be retiring or leaving Continental,  
14 did Mr. Stein say anything else during this  
15 first conversation?

16 A No.

17 Q Did you report that conversation  
18 that you just described with Mr. Stein to anyone  
19 at Continental?

20 A No. I did not.

21 Q So now I want to talk about the  
22 second conversation. When do you allege the  
23 second conversation took place with Mr. Stein?

24 A On the line.

25 Q On the line?

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1 A And I don't know when.

2 Q Okay. When you say on the line, is  
3 that a production line?

4 A Correct.

5 Q And I believe you said you don't  
6 know when this conversation took place on the  
7 production line. Is that correct?

8 A Correct.

9 Q Was it in 2019?

10 A I'm not sure. However, after that  
11 conversation, I started getting moved to a  
12 different location.

13 Q And were you moved to a different  
14 location in tire build?

15 A No.

16 Q What location were you moved to?

17 A I believe the section is -- it's  
18 actually cooking the tires. It's heat --  
19 heat --

20 Q Cur--- curing?

21 A Curing.

22 Q Okay. So you got -- took on a  
23 function in curing?

24 A Right.

25 Q And when you took on that function



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1 in curing, was that a permanent basis or do you  
2 take that temporarily?

3 A No. Whenever you felt like it.

4 Q So on occasions, you were asked to  
5 fill in in curing?

6 A Not asked. Told. Yes.

7 Q And when you filled in in curing,  
8 about how many occasions do you think that was?

9 A Many. I don't know how many, but  
10 many times.

11 Q Were you still in the role of tire  
12 build operator at that time when you were --

13 A Correct.

14 Q -- performing in curing?

15 A Yes.

16 Q Did your pay ever change?

17 A No.

18 Q And you believe the conversation  
19 took place on a production line. Were there any  
20 witnesses to the conversation?

21 A No.

22 Q And what exactly did Mr. Steff---  
23 Stein say in the second conversation that you  
24 believe occurred on the production line?

25 A Similar to the same thing. When are

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1 you -- how old are you? When are you going to  
2 retire?

3 Q Did Mr. Stein say anything else  
4 during the second conversation that you believe  
5 occurred on the production line?

6 A Yes.

7 Q What else did he say?

8 A That I don't look my age.

9 Q Do you know if Mr. Stein was  
10 suggesting you looked younger than your age?

11 A I don't know.

12 Q You don't know what Mr. Stein meant  
13 by the comment?

14 A Correct.

15 Q Did you report the second  
16 conversation that you believe occurred on the  
17 production line to anyone at Continental?

18 A I did not.

19 Q Now, in paragraph 30 of your second  
20 amended complaint, you state that Mr. Stein  
21 called you, quote, an old man. Did I read that  
22 correctly?

23 A Yes.

24 Q In what conversation did Mr. Stein  
25 call you an old man?

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1           A       In the morning times we would  
2 meet -- the whole group and we'd get back these  
3 are things we need to do and pair up with your  
4 partner and go to your machines. And I was  
5 walking when he called me old man, don't go to  
6 your machine, you need to come with me.

7           Q       And --

8           A       At that time, he took me to another  
9 section, which is repair.

10          Q       So on how many occasions do you  
11 contend Mr. Stein called you an old man?

12          A       Two or three.

13          Q       And do you recall when, not where,  
14 but when these conversations occurred?

15          A       I don't know the dates, no.

16          Q       Do you know if they were in 2019?

17          A       I'm not certain.

18          Q       So sitting here today, you don't  
19 know when these conversations occurred?

20          A       Correct.

21          Q       Do you know if there were any  
22 witnesses to any of these occasions where you  
23 contend Mr. Stein referred to you as old man?

24          A       I don't remember if anyone -- no.

25          Q       You don't know if there were any

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1 witnesses?

2 A I don't know who they were. There  
3 were witnesses, but I don't know who they are.  
4 They were there.

5 Q And when you say they were there,  
6 are these individuals that were just aron---  
7 around in the vicinity?

8 A These were working people, daily  
9 workers that I worked with.

10 Q So folks that you worked with in and  
11 around the plant?

12 A Correct.

13 Q And you don't know who would have  
14 heard it?

15 A I'm certain many people heard, but I  
16 don't know the names of the individuals. I was  
17 only close to one or two people.

18 Q And in the time your employment  
19 terminated, where did Mister -- was Mr. Stein  
20 still employed at Continental?

21 A I don't know.

22 Q Earlier, when I asked you to  
23 identify what actions Mr. Stein had taken  
24 against you on the basis of your age, you -- one  
25 of the things that you had identified was that

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1 Q Is this your belief, Mr. Washington?

2 A I think it's based on past  
3 performance as a company.

4 Q And --

5 A That's my belief, yes.

6 Q That's your belief?

7 A It is.

8 Q Is there any other basis for your  
9 age discrimination claim other than what we've  
10 talked about today?

11 A No, ma'am.

12 Q Did anyone at Continental ever tell  
13 you that your employment was terminated because  
14 of your age?

15 A No.

16 Q I believe we talked earlier today  
17 about the fact that you applied for unemployment  
18 benefits when you were -- back when your  
19 employment terminated from Continental. Is that  
20 correct?

21 A Yes.

22 Q Do you recall what you were earning  
23 from Continental in an hourly rate at the time  
24 your employment ended?

25 A I have to state this here, no. You

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1 wanted to come back. The 23rd is when I said I  
2 was going to come back. They told me not to  
3 come back in, so it had to have been the 24th.

4 Q Do you know if your employment  
5 terminated on April the 24th, 2019?

6 A That's a yes.

7 Q How do you know that your employment  
8 did not terminate on April the 24th, 2019?

9 A What was that?

10 Q Do you know whether your employment  
11 terminated on April the 24th, 2019?

12 A Yes.

13 Q Okay. How -- how do you know that?

14 A Because the day that I wanted to  
15 come back to work, I had told them because they  
16 said do what you needed to do to you take of  
17 your family. I said I'll be ready to come back  
18 on the 23rd. When I happened to come back on  
19 the 23rd, I called. Based on that information,  
20 I was told that you -- you will be speaking with  
21 Clayton. And once I had spoken with him, he  
22 said not to come in. I'm pretty sure that was  
23 the day after. I believe that's when it was, to  
24 my best recollection.

25 Q Do you know --

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1 A Yes.

2 Q -- one way or the other whether the  
3 conversation that you have described with  
4 Clayton Tucker occurred on April the 24th, 2019?

5 A Oh, for sure. I do know I -- I  
6 spoke with him, yes.

7 Q On April the 24th, 2019?

8 A 24th, yes.

9 Q And now, you're also asked here to  
10 indicate who discharged you and you provide a  
11 name of Nicole per Clayton?

12 A Correct.

13 Q Okay. And help me understand what  
14 you meant when you identified that -- when you  
15 wrote in this box Nicole per Clayton?

16 A When I called, that person couldn't  
17 contact me. So this person, Nicole, called me  
18 and says Clayton will call you. I believe  
19 that's -- was what he -- she tied it into him.  
20 But one way or another, I could not get directly  
21 to him. And I'm not sure if he -- he called me  
22 and she had put me on hold or what have you, but  
23 she was involved in me actually talking with  
24 this individual.

25 Q And --





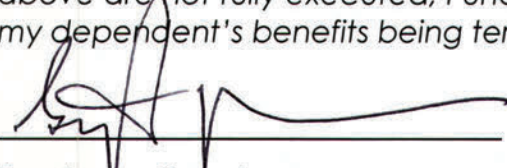




I have attended New Hire Orientation which included information about Continental's Benefit Offerings. I understand from this meeting the following:

1. I have **30 days** from my hire date to enroll in benefits via [www.mycontibenefits.com](http://www.mycontibenefits.com) with Continental and failure to do so will result in no coverage for me or dependents, if applicable.
2. I am required to provide Benefitfocus with proper verification documentation as prescribed in the new hire packet and/or on [www.mycontibenefits.com](http://www.mycontibenefits.com) that substantiates any dependents that I have added to my benefits. I understand that I have **60 days** from my hire date to provide the required documentation for enrolled dependents to Benefitfocus by faxing the information to: 866-742-6444. It is my responsibility to keep a copy of the confirmed fax transmission sheet that shows proof of transmittal.
3. Should my mailing address change at any point in time, it is my responsibility to log into My HR Self Service to change it. Failure to update local Continental HR with an updated address could cause important information to not be properly communicated that could result in benefits termination.

*By signing this document, I agree that I fully understand the benefit enrollment and verification requirements. If any of the steps outlined above are not fully executed, I understand that it may result in my and/or my dependent's benefits being terminated retroactively to my hire date.*

  
Employee Signature

Gary Waslick  
Print Name

1/30/2018  
Date

\_\_\_\_\_  
HR Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date



Name GARY WASHINGTON  
(Print)

CONTINENTAL TIRE THE AMERICAS, LLC

Dept. Name \_\_\_\_\_

Dept. Number \_\_\_\_\_

A Corporation of the

Employment Location \_\_\_\_\_

State of Ohio, USA

### **PROPERTY, CONFIDENTIAL INFORMATION TRADE SECRETS & INVENTIONS AGREEMENT**

IN CONSIDERATION of my employment by Continental Tire Americas, LLC ("Company"), its parent or any of its subsidiaries (collectively referred to as "Employer"),

1. I shall not disclose to anyone outside of Employer, or use in other than Employer's business, any documents and/or other property of Employer, nor shall I disclosed to anyone outside of Employer, or use in other than Employer's business, any Confidential Information or Trade Secrets relating to the business of Employer or of other companies with whom Employer has a confidential relationship, either during or after my employment by Employer except with Employer's prior written permission or as required by law.

"Confidential Information" shall include all information not generally available to the public that is owned by Employer as a result of the creative and business efforts of its own employees and agents or is in Employer's possession as a result of confidential disclosures from third parties, including suppliers, customers, parent, subsidiary and related companies, technical affiliates and licensors to Employer. "Confidential Information" shall include any of the foregoing information, whether disclosed orally, by written documents, drawings, pictures, audio or video recordings, computer software, and data transmission means, or by visual inspection of any of Employer's production or research and development facilities or business offices. "Confidential Information" shall also include all analyses, compilations and amalgamations of the foregoing information whether made by Employer, recipient or a third party.

"Trade Secrets" means information including, but not limited to, scientific and technical data such as product specifications, drawings, equipment and process specifications and drawings, information relating to the development of new products, equipment and processes, including invention disclosures, reports and correspondence relating to research and product development projects, including work assignment files, test data relating to products, processes and equipment, and shall include non-technical data, financial data or information, lists of actual or potential customers or suppliers, or lists of names, addresses or telephone numbers that is sufficiently secret that it derives economic value, actual or potential, from not being generally known or from not being readily ascertainable by other persons who can attain economic value from its disclosure or use. "Trade Secrets" shall include any of the foregoing information, whether disclosed orally, by written documents, drawings, pictures, audio or video recordings, computer software, and data transmission means, or by visual inspection of any of Employer's production or research and developmental facilities or business offices.

2. I shall not knowingly disclose to Employer or induce Employer to use any Confidential Information or Trade Secrets belonging to others

3. I hereby assign to Employers my entire right, title and interest to any invention or idea, patentable or not, which is made, conceived or reduced to practice solely or jointly by me:

- a. while employed by Employer; and
- b. which relates in any manner to the manufacture, use or sale of vehicle tires or, to the design, development and/or manufacture of Airsprings, or Suspension systems or any components thereof, or to any other actual or anticipated business of Employer, or relates to its actual or anticipated research and/or development, or is suggested by or results from any task assigned to me or from work performed by me for or on behalf of Employer:





- c. except any invention or idea which I cannot assign to Employer because of a prior invention agreement with \_\_\_\_\_, which is effective until \_\_\_\_\_.  
(Give name and date or write "none.")
4. I agree that in connection with any invention or idea covered by paragraph 3:
- I shall disclose it promptly to Employer's Law Department; and
  - I shall, on request, execute a specific assignment of title to Employer and do all else reasonably necessary to enable Employer to secure patent protection therefore in the United States and in foreign countries.
5. I have listed and identified on the back of the form my inventions or ideas in which I have any right, title, or interest and which were previously conceived; either wholly or in part by me. (It is your interest to establish that any such inventions or ideas were made before your employment with Employer. You should not disclose such inventions or ideas in detail, but only identify them by titles and dates of documents describing them)
6. I agree that upon termination or cessation of my employments with Employer for any reason, I will promptly deliver to Employer all drawings, blueprints, manuals, letters, samples, parts, notes, notebooks, reports, memos, production data, documents and all other material or documentation of whatsoever nature of the Employer, including but not limited to all computer discs and all information stored on computers which are in any way in my possession and/or under my control. Further, I agree that I will not retain such information outside the workplace. I acknowledge that Employer can be competitively disadvantaged by the retention of such information and I agree the obligations set forth in this paragraph six (6) shall not be superseded by any oral or written agreement to the contrary.
7. If given access to Employer's computer system, I agree to use the system for Employer's business purposes and not to its detriment. I further agree to be responsible for use of my user identification number and passwords and will refrain from disclosing passwords to others. I agree that copies, extracts or derivatives I make of Employer's computer programs or data files not generally available to all or most associates will be retained by me only for a time reasonable under the existing Employer business circumstances and will then be destroyed. Such programs and data files are *Confidential Information* of Employer. I also agree not to intentionally attempt to access computer programs or data files I have no authority to access.
8. I recognize and acknowledge that the Employer has or may have proprietary business practices and trade secrets, lists of customers and other matters which are special and unique assets of the Employer's business. I agree that I will not disclose such information or any part thereof to any person, firm or corporation, association or other entity for any reason or purpose whatsoever.
9. I agree that with respect to the subject matter hereof, it is my entire agreement with Employer, superseding any previous oral or written communication, representations, understandings or agreements with Employer or any official or representative thereof. I understand and agree that the obligations of Paragraphs 1, 2, 3, and 4 extend beyond my employment with Employer and bind my executors, administrators, or other legal representatives.

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: 1/29/2018



### FMLA REQUEST FORM

Employee: GARY Washington Date: 12/13/15  
 Job Title: Tire Build Supervisor: JOHN STINE

To request leave under the Family and Medical Leave Act ("FMLA"), submit this request form to Human Resources at least 30 days before the leave is to commence, when practicable. If submission of the request 30 days in advance is not practicable, submit the request as early as is practicable. In most cases, it should be practicable to provide notice of the need for leave either the same day the need for leave becomes known or the next business day. Continental reserves the right to delay, or deny leave, for failure to give appropriate notice when such delay/denial would be permitted under federal or state law.

The FMLA entitles eligible employees to take leave for the following reasons (please check the applicable reason for your requested leave):

- ☐ The birth of a child, or placement of a child with you for adoption or foster care;
- ☐ Your own serious health condition;
- ☒ Because you are needed to care for your \_\_\_\_\_ spouse; \_\_\_\_\_ child; ✓ parent due to his/her serious health condition;
- ☐ Because of a qualifying exigency arising out of the fact that your ✓ spouse; \_\_\_\_\_ son or daughter; \_\_\_\_\_ parent is on covered active duty or call to covered active duty status with the Armed Forces; or
- ☐ Because you are the \_\_\_\_\_ spouse; \_\_\_\_\_ son or daughter; \_\_\_\_\_ parent; \_\_\_\_\_ next of kin of a covered servicemember with a serious injury or illness.

### **DATES OF LEAVE REQUESTED:**

- ☐ I request leave from \_\_\_\_\_ to \_\_\_\_\_
- ☒ I request intermittent leave according to the following schedule: AS NEEDED for  
Appointment for Shelly starting in June 2018
- ☐ I request a reduced schedule leave according to the following schedule: \_\_\_\_\_

The total number of days of leave that I request is \_\_\_\_\_

**FAMILY MEDICAL LEAVE ACT**

Page 1 of 2

CONTINENTAL 000017



**EMPLOYEE STATEMENT:**

I certify that the statements made above are true and accurate. I understand that I have an obligation to respond to questions from my employer designed to determine whether my absence is potentially FMLA-qualifying. Furthermore, I understand that if I fail to respond to any reasonable inquiry by my employer regarding this leave request, the employer may deny my FMLA leave request if it is unable to determine whether the leave is FMLA-qualifying.

[Signature]  
Employee Signature

12/13/18  
Date

6009023  
Employee Number

**TO BE COMPLETED BY HUMAN RESOURCES:**

Request for Leave received on: 12/13/2018

Request processed by: Ashley Cox

Ashley E Cox  
Approval Signature

1/7/2019  
Date



**EMPLOYEE STATEMENT OF FAMILY RELATIONSHIP**  
**DOCUMENTATION**

I hereby certify that

**Redacted for Privacy**

(name) is my (check one): ☒

Spouse

☐ Child

☐ Mother

☐ Father

I understand that any deliberate misrepresentations made in this statement are punishable pursuant to the Company's policies regarding misrepresentations by employees. I certify that all of the statements made herein are true and accurate to the best of my knowledge and belief.

Employee: Gary Washington Phone: Redacted for Privacy

Department: Time Build Supervisor: John Stone

Employee Signature

Date

12/13/18

*Do Not Write Below This Line*

Human Resources

Date

12/13/2018

**FAMILY MEDICAL LEAVE ACT**

Page 1 of 1

Paid Time Off (PTO) and/or Employee Purchased Time Off (EPTO) Request Form

1. I acknowledge that I am required to use PTO, to the extent it is available (earned but not used), for the waiting period before an approved Medical Leave of Absence can begin. If a Company designated holiday occurs during the waiting period, then the holiday will count toward the waiting period and I will not need to use a PTO day.

This waiting period applies to all subsequent leave requests for a new, unrelated condition and/or leave requests for the same condition after I have been actively returned to work for more than 90 calendar days. I acknowledge that I understand and agree with the terms of the Medical Leave of Absence (MLOA), Family and Medical Leave (FMLA) and Paid Time Off (PTO) Policies.

2. If you are on reduced benefit (less than 100% normal base pay), you may apply Employee Purchased Time Off (EPTO), which has been paid for via payroll deduction, or earned Paid Time Off (PTO) time to offset the difference of income. (Refer to Company PTO Policy.) Should I receive any overpayment of STD benefit, the Company has the right to recover those overpayments through subsequent payroll cycles.

By initialing next to the option(s) below, I agree to utilizing PTO and/or EPTO to offset the difference of income while on leave and understand and agree to the terms of the Paid Time Off (PTO) Policy:

SW I formally authorize usage of earned PTO to offset the difference of income while on leave.

SW I formally authorize usage of EPTO, if applicable, to offset the difference of income while on leave.

SW I formally authorize usage of borrowed PTO against my current year's PTO benefit to offset the difference of income while on leave.

Gary Washinfor  
Employee Name (Print)

12/13/18  
Date

[Signature]  
Employee Signature

12/13/18  
Date

Ashley E Cox  
Authorized Continental Representative

12/13/2018  
Date





**EMPLOYEE'S ACKNOWLEDGMENT OF RECEIPT AND REVIEW OF  
CONTINENTAL'S LEAVE POLICIES AND FMLA EMPLOYEE  
RIGHTS AND RESPONSIBILITIES**

I, Gary Wasilowski (print name),  
an employee of Continental, acknowledge that I have been given a copy of, read,  
and fully understand the Company's policies and procedures on leaves of absence,  
including the FMLA Employee Rights and Responsibilities and the following  
policies:

- FMLA;
- Medical Leave of Absence; and
- Paid Time Off/Vacation Time (if applicable).

I have been offered an opportunity to ask any questions that I need to ask in order  
to fully understand the Company's policies and my rights and responsibilities under  
them. I agree that I will comply with these policies and procedures.

[Signature]  
Signature

12/13/18  
Date

60009023  
Employee Number



FAX : 803-506-5195 ←

NLT 1/2/2019

Certification of Health Care Provider for  
Family Member's Serious Health Condition  
(Family and Medical Leave Act)

U.S. Department of Labor  
Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.

OMB Control Number: 1235-0003

Expires: 5/31/2018

**SECTION I: For Completion by the EMPLOYER**

**INSTRUCTIONS to the EMPLOYER:** The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact:

Continental Tire - Ashley Cox  
803-506-5312

**SECTION II: For Completion by the EMPLOYEE**

**INSTRUCTIONS to the EMPLOYEE:** Please complete Section II before giving this form to your family member or his/her medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave to care for a covered family member with a serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form to your employer. 29 C.F.R. § 825.305.

Your name:

Gary Allen Washington  
First Middle Last

Name of family member for whom you will provide care:

First

Middle

Last

Relationship of family member to you:

Wife

If family member is your son or daughter, date of birth: —

Describe care you will provide to your family member and estimate leave needed to provide care:

[Redacted area]

Employee Signature

Date

12/13/18

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CONTINUED ON NEXT PAGE

Form WH-380-F Revised May 2015

Redacted for Privacy

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**SECTION III: For Completion by the HEALTH CARE PROVIDER**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), or genetic services, as defined in 29 C.F.R. § 1635.3(e). Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: [REDACTED]

Type of practice / Medical specialty: [REDACTED]

Telephone: [REDACTED]

**PART A: MEDICAL FACTS**

1. Approximate date condition commenced: [REDACTED]

Probable duration of condition: [REDACTED]

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

☒ No ☐ Yes. If so, dates of admission: [REDACTED]

Date(s) you treated the patient for condition: [REDACTED]

Was medication, other than over-the-counter medication, prescribed? [REDACTED]

Will the patient need to have treatment visits at least twice per year due to the condition? [REDACTED]

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

If so, state the nature of such treatments and expected duration of treatment: [REDACTED]

2. Is the medical condition pregnancy? [REDACTED]

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

[REDACTED]

Redacted for Privacy



**PART B: AMOUNT OF CARE NEEDED:** When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? [REDACTED]

Estimate the beginning and ending dates for the period of incapacity: [REDACTED]

During this time, will the patient need care? [REDACTED]

Explain the care needed by the patient and why such care is medically necessary:

[REDACTED]

5. Will the patient require follow-up treatments, including any time for recovery? [REDACTED]

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

[REDACTED]

Explain the care needed by the patient, and why such care is medically necessary:

[REDACTED]

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? [REDACTED]

Estimate the hours the patient needs care on an intermittent basis, if any:

\_\_\_\_\_ hour(s) per day; \_\_\_\_\_ days per week from \_\_\_\_\_ through \_\_\_\_\_

Explain the care needed by the patient, and why such care is medically necessary:

[REDACTED]

Redacted for Privacy





gawcpi@att.net

# Designation Notice (Family and Medical Leave Act)

U.S. Department of Labor  
Wage and Hour Division



OMB Control Number: 1235-0003

Expires: 5/31/2018

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. In order to determine whether leave is covered under the FMLA, the employer may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient. While use of this form by employers is optional, a fully completed Form WH-382 provides an easy method of providing employees with the written information required by 29 C.F.R. §§ 825.300(c), 825.301, and 825.305(c).

To:

Gary Washington

Date:

1/7/2019

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided. We received your most recent information on 1/7/2019 and decided:

☒ Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave.

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your leave entitlement:

☐ Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: \_\_\_\_\_

☒ Because the leave you will need will be unscheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

## Please be advised (check if applicable):

☐ You have requested to use paid leave during your FMLA leave. Any paid leave taken for this reason will count against your FMLA leave entitlement.

☒ We are requiring you to substitute or use paid leave during your FMLA leave.

☐ You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position is is not attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.

## Additional information is needed to determine if your FMLA leave request can be approved:

☐ The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than \_\_\_\_\_, unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.  
(Provide at least seven calendar days)

(Specify information needed to make the certification complete and sufficient)

☐ We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

☐ Your FMLA Leave request is Not Approved.

☐ The FMLA does not apply to your leave request.

☐ You have exhausted your FMLA leave entitlement in the applicable 12-month period.

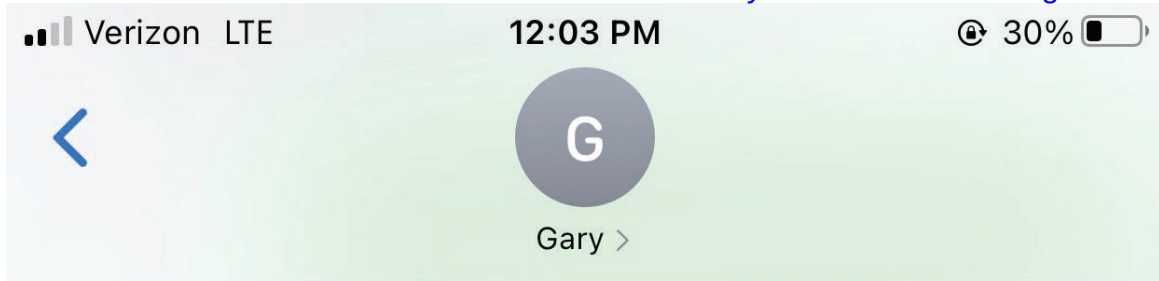
## PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. §§ 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 – 30 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

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Form WH-382 January 2009

CONTINENTAL 000027



Feb 26, 2019, 9:56 PM

Okay

Apr 12, 2019, 7:04 AM

God morning Ocsar

My Mom passed. I shared it with Sup John. Is there anything else i need to do or know?

We hanging fairly well, she was very sick for sometime best of all She knows thé Lord. Thanks

Sorry to hear this news just as soon as y'all make plans just let me know and we can go from there

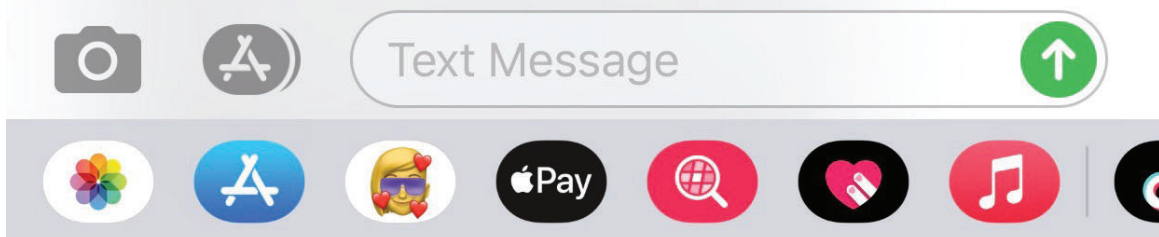
Thanks,

Apr 19, 2019, 8:43 AM

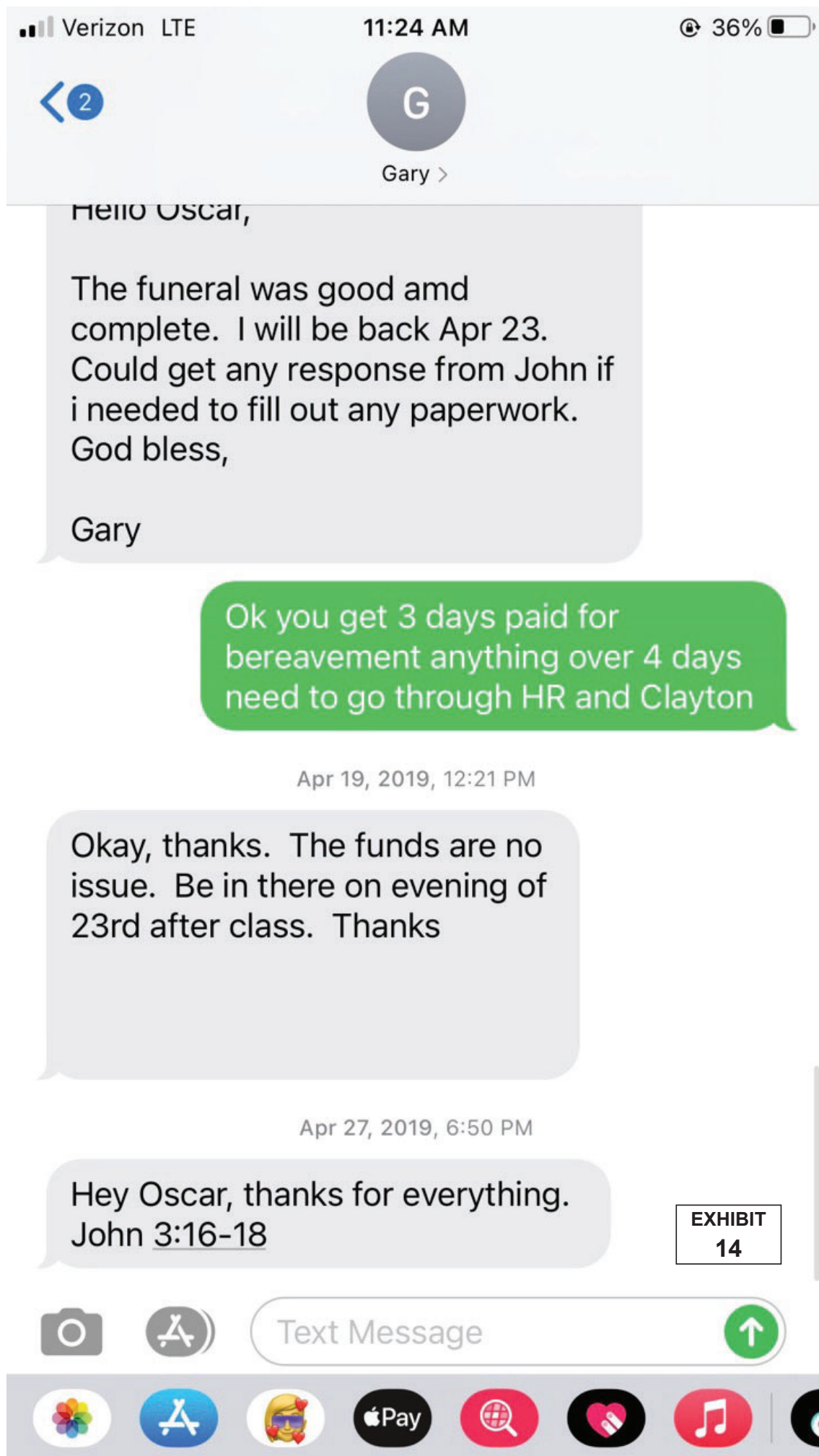
Hello Oscar,

The funeral was good amd complete. I will be back Apr 22

EXHIBIT  
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From: Kirby Smith

Fax: 18773526253

To:

Fax: (864) 241-4416

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10/15/2019 4:02 PM

EEOC Form 5 (5/01)

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

436-2020 00330

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mr. Gary Washington

Home Phone (incl. Area Code)

803-238-4542

Date of Birth

Redacted for Privacy 1962

Street Address

City, State and ZIP Code

420 Lamme Chase

Johns Creek, GA 30097

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

Continental Tire the Americas, LLC

No. Employees, Members

500+

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

1830 MacMillan Park Dr

Fort Mill, SC 29707

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE☐ COLOR☐ SEX☐ RELIGION☐ NATIONAL ORIGIN☐ RETALIATION☒ AGE☐ DISABILITY☐ OTHER (Specify below.)DATE(S) DISCRIMINATION TOOK PLACE  
Earliest Latest

4/19/19

4/24/19

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

See attached for Complaint Supplement

**Designation of Representative**Mr. Washington is represented by The Kirby G. Smith Law Firm LLC, located at 4488 N Shallowford Rd, Ste 105, Atlanta, GA 30338. His attorney should be reached by email at [ack@kirbygsmith.com](mailto:ack@kirbygsmith.com) or by fax at (877) 352-6253.RECEIVED  
DIRECTOR

OCT 15 2019

EEOC  
Greenville Local Office  
Greenville, SC

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.  
SIGNATURE OF COMPLAINANTSUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

Date

Charging Party Signature

CONTINENTAL 000098



From: Kirby Smith

Fax: 18773526253

To:

Fax: (864) 241-4416

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### COMPLAINT SUPPLEMENT

Mr. Washington worked for Continental Tire (Continental) as a Tire Builder, beginning his employment in October 2017.

On April 3, 2019, Mr. Washington notified his supervisor, Mr. John Stein, that his mother had been admitted to the ICU and was near death. He asked Mr. Stein for permission to go on a leave of absence to care for his mother. Mr. Stein agreed and asked Mr. Washington to keep him updated. FMLA was not discussed as a possible option.

On April 10, Mr. Washington's mother passed away. On April 12, Mr. Washington notified Mr. Stein and his second level supervisor, Mr. Oscar Boyle, of her death. Mr. Boyle responded by text message, "Sorry to hear this news just as soon as y'all make plans just let me know and we can go from there." He did not mention FMLA leave as an option or refer Mr. Washington to Human Resources (HR). Mr. Washington attempted to reach Mr. Stein but did not receive a response.

On April 19, Mr. Washington contacted Mr. Boyle by text message and said he would like to return on April 23. Later that day, an HR representative called Mr. Washington and told him that Mr. Clayton Turner, Division Manager, would contact him shortly. The following day, Mr. Clayton terminated him.

Mr. Washington is 56 years old. He is the oldest Tire Builder by at least ten years; the average age for Mr. Washington's comparators is well under 40 years old. On at least two occasions in 2019, Mr. Stein referenced Mr. Washington's age and asked if he was considering retirement. This is sufficient for Mr. Washington to plead a *prima facie* claim of age discrimination.